

After Recording Return to:

Barbara Sikorski, Asst. Clerk
Snohomish County Council
3000 Rockefeller, M/S 609
Everett, WA 98201

Agencies: Snohomish County and City of Everett
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Documents Title:

**INTERLOCAL AGREEMENT FOR AIRPORT ROAD 80% ANNEXATION
BETWEEN THE CITY OF EVERETT AND SNOHOMISH COUNTY
CONCERNING ANNEXATION WITHIN THE SOUTHWEST COUNTY
URBAN GROWTH AREA**

1. PARTIES

This annexation-specific interlocal agreement (hereinafter “AGREEMENT”) is made by and between the City of Everett (hereinafter referred to as the “CITY”) and Snohomish County (hereinafter referred to as the “COUNTY”), political subdivisions of the State of Washington, pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.

2. PURPOSE AND RECITALS

2.1 The City of Everett’s Growth Management Act (GMA) Comprehensive Plan identifies Everett’s growth planning area and areas within the unincorporated COUNTY’s southwest county urban growth area (SWUGA), which the CITY may annex in the future. The proposed 80% annexation area is wholly within Everett’s growth planning area and does not lie within any overlap planning area with another city. The proposed 80% annexation area does not include any airport property owned by Snohomish County (Paine Field).

2.2 GMA encourages cities with urban services to annex unincorporated urban areas within a county.

2.3 The CITY and COUNTY recognize the need to facilitate an orderly transition of services and capital projects from the COUNTY to the CITY at the time of annexation.

2.4 The CITY and COUNTY recognize that mutual coordination of land use densities and designations within the SWUGA is necessary to reduce urban sprawl, support urban infrastructure and protect rural areas within the COUNTY.

2.5 The CITY and COUNTY support the overall growth targets in terms of allocation of population and employment for the region. Nothing in this agreement shall alter the CITY’s obligations to meet these growth targets consistent with the GMA.

2.6 The CITY and COUNTY believe it is in the best interest of the citizens of both jurisdictions to enable reciprocal imposition of impact mitigation requirements and regulatory conditions that effect improvements in the respective jurisdictions.

2.7 The CITY and COUNTY both acknowledge that in fulfilling responsibilities under this AGREEMENT that would otherwise under law be the responsibility of the other jurisdiction, each party acts as the agent of the other party.

3. APPLICABILITY, NOTICE OF FUTURE ANNEXATION PROPOSALS, AMENDMENTS, AND SCOPE

3.1 Applicability. The CITY and COUNTY agree that this AGREEMENT shall apply to the unincorporated area generally described as east of Airport Road as shown in the attached Exhibit A, which is incorporated herein by reference and referred to herein as "annexation area." The CITY has proposed a municipal annexation of this area under the "island" method where at least 80 percent of the annexation area boundary is made up of the incorporation city's boundary. The Everett City Council approved Ordinance 2422-99 on November 17, 1999, to annex the unincorporated island in South Everett. The ordinance is attached as Exhibit B. The Airport Road 80% annexation shall be referred to in this AGREEMENT as "the annexation."

3.2 Future agreements. The CITY and COUNTY agree that additional interlocal agreements may be entered into by the CITY and COUNTY to address issues which the CITY and COUNTY mutually agree need to be addressed in addition to, or in lieu of, issues addressed herein.

3.3 Process for future amendments. The CITY and COUNTY recognize that amendments to this AGREEMENT may be necessary to clarify or change the requirements of particular sections or update the AGREEMENT. Both parties may pursue these amendments as necessary. Any amendment to this AGREEMENT shall be executed in the same manner as provided by law for the execution of this AGREEMENT.

3.4 Cities' claims to SWUGA. Nothing in this AGREEMENT shall interfere, or be interpreted to interfere, with any claims or rights of any city within the UGA to assert an overlapping interest in a portion of the SWUGA.

4. TRANSFER OF PERMITS IN PROCESS BY THE COUNTY

4.1 County will process permits. The COUNTY agrees to continue processing both building and land use permit applications in the annexed area for which complete applications were filed before the effective date of the annexation, as provided below.

4.2 City will adopt County code. The CITY agrees to adopt the COUNTY'S permitting code by reference for the purpose of allowing the COUNTY to continue processing those permits in the annexed area. Adoption of the COUNTY's code shall in no way have an effect on projects

applied for under the CITY's jurisdiction. The relevant code is listed in Exhibit C to this AGREEMENT.

4.3 Building permits. In the annexed area, the COUNTY shall complete processing of building permit applications, subject to the limitations in Sections 4.4 and 4.5 of this AGREEMENT. In addition, the COUNTY shall accept, process, and conduct inspections for any associated permits for which it receives an application and accompanying fees through completion. For the purposes of this AGREEMENT, "associated permits" means mechanical, plumbing and sign permits for the building being permitted. For the purposes of this AGREEMENT, "completion" means final administrative or quasi-judicial approvals, including final inspection and issuance of an occupancy permit. The COUNTY shall be responsible for defending any administrative, quasi-judicial or judicial appeals of building permits issued by the COUNTY in the annexed area. For permit renewals, see Section 4.7. Where legislative approval by the Everett City Council is required, the COUNTY will provide relevant staff to the Council's meeting, if deemed necessary by the CITY.

4.4 Building permits may be issued up to four months following annexation. The COUNTY shall continue processing building permit applications pursuant to Section 4.3 of this AGREEMENT for up to four months following the effective date of the annexation. On or about the effective date of the annexation, the COUNTY and CITY will determine, in consultation with the applicant(s), whether any pending building permit applications will be transferred to the CITY for completion.

4.5 Transfer by request of permit applicant. The CITY may at any time request the COUNTY to transfer pending building permit applications upon receipt of a written request by the permit applicant. The COUNTY will contact applicants for pending permit applications to provide advance notification of the transfer date. The CITY will honor any intermediate approvals (such as building plan check approval) which are effective prior to transfer of the permit application. Extension of intermediate approvals following the annexation must be approved by the CITY following consultation with COUNTY staff.

4.6 Land use permits. The CITY and COUNTY agree to review the pending land use permits within the annexation area and to execute a detailed agreement covering the transfer of the pending land use permits in the annexation area within 90 days of the execution of this AGREEMENT or before the effective date of the annexation, whichever occurs earlier.

4.7 Permit renewal or extension. Any request to renew a building permit or to renew or extend a land use permit issued by the COUNTY in the annexation area shall be made to and administered by the CITY.

4.8 Land use code enforcement cases. Any land use code enforcement cases in the annexation area pending in the COUNTY will be transferred to the CITY on the effective date of the annexation. Any further action in those cases will be the responsibility of the CITY. The COUNTY agrees to make its employees available as witnesses at no cost to the CITY if necessary to prosecute transferred cases.

4.9 Enforcement of County conditions. Following the effective date of the annexation, the CITY agrees to enforce any conditions imposed by the COUNTY relating to the issuance of a building or land use permit in the annexed area. Any performance or other bonds held by the COUNTY to guarantee performance or completion of work associated with the issuance of a permit shall be transferred to the CITY along with responsibility for enforcement of conditions tied to said bonds. The COUNTY agrees to make its employees available to provide assistance, at no cost to the CITY, in enforcement of conditions on permits originally processed by County personnel.

4.10 Transfer of permit fees. The CITY and COUNTY shall proportionately share the permit application fees for any transferred cases. The COUNTY shall transfer a proportionate share of the application fee collected to the CITY, commensurate with the amount of work left to be completed on the permit.

5. RECORDS TRANSFER

Transfer of COUNTY records will be subject to an interlocal agreement between the CITY and the COUNTY, entitled "Interlocal Agreement Between the City of Everett and Snohomish County Concerning Transfer, Custody, and Retention of and Access to Public Records Following Annexation."

6. ROADS AND TRANSPORTATION SYSTEM

6.1 Ownership and maintenance. Ownership, maintenance and use of road right-of-way lines as annexation boundaries shall be as provided by law. The CITY and COUNTY agree to evaluate whether interlocal agreements addressing maintenance of roads/streets, traffic signals, or other transportation facilities are appropriate in connection with the annexation.

6.2 Reciprocal impact mitigation. The CITY and COUNTY agree to pursue a separate interlocal agreement on reciprocal mitigation of transportation impacts. The CITY and COUNTY agree to continue implementing existing interlocal agreements and programs relating to interjurisdictional impact mitigation. The CITY agrees to continue administering any latecomers assessment reimbursement contracts for street projects established pursuant to Chapter 35.72 RCW in accordance with the terms of the documents recorded with the Snohomish County Auditor. The COUNTY shall provide the CITY information necessary to effectively administer these agreements or programs.

6.3 Transportation planning and capital project coordination. The CITY and COUNTY have a history of cooperation and joint participation in system-wide transportation improvement projects in the southwest Everett area. The CITY and COUNTY agree to continue developing project-specific interlocal agreements within the annexation area. The CITY and COUNTY also agree to continue to pursue partnership interlocal agreements with relevant agencies such as Washington State Department of Transportation, Everett Transit, Community Transit, Sound Transit, and other entities to facilitate and coordinate regional transportation facilities and goals.

6.4 Regional arterial network planning. The CITY and COUNTY agree to cooperate on the development of a regional arterial network plan and other efforts to coordinate regional arterial planning and transportation circulation and connectivity.

6.5 Consultation, cooperative financing and project-specific interlocal agreements for capital projects within the annexation area. The COUNTY agrees to consult with the CITY in planning for all new capital road construction projects within the annexation area. The CITY and COUNTY will pursue cooperative financing for major new capital facilities within the annexation area. The CITY and COUNTY will discuss the need for shared responsibilities in implementing projects, including the potential for indebtedness by bonding or loans. Cooperation and shared responsibilities for transportation projects within the annexation area shall be addressed by separate interlocal agreement(s) for specific projects. Project-specific interlocal agreements can include, but are not limited to: planning, design standards, cost sharing, joint funding applications, transfer of unbudgeted and unexpended road mitigation payments and road-related State Environmental Policy Act (SEPA) mitigation payments collected within the annexation area, mitigation measures, property acquisition, construction, engineering services, and other issues. Project-specific interlocal agreements for major capital facility projects within the annexation area may address future revenue adjustments necessary to support capital facility financing mechanisms.

7. SURFACE WATER MANAGEMENT

7.1 Fees and service responsibilities. The CITY recognizes that fees are collected by the COUNTY for unincorporated areas within designated Watershed Management Areas (WMAs). Watershed management fees are collected at the beginning of each year through real property tax statements. Upon the effective date of the annexation, the CITY hereby agrees that the COUNTY will continue to collect and apply the fees, pursuant to Chapter 25.20 SCC, collected during the calendar year in which the annexation occurs to the provision of watershed management services designated in that year's budget. These services will be provided through the year in which the annexation becomes effective and will be of the same general level and quality as those provided to other fee payers in the COUNTY.

7.2 Maintenance and ownership responsibilities. If the annexed area includes drainage improvements or facilities the COUNTY currently owns or maintains, the CITY and COUNTY shall agree to the disposition of maintenance and ownership responsibilities by the end of the year in which the annexation becomes effective. The responsibilities resulting from such discussions shall be included as part of the annexation related amendment to this AGREEMENT. If the COUNTY's current Annual Construction Program includes major drainage improvements in the area to be annexed, the CITY and COUNTY shall agree how funding, construction, and subsequent operational responsibilities will be assigned for these improvements.

7.3 Amending existing agreements. Existing interlocal agreements between the CITY and COUNTY regarding provision of surface water management services to an annexed area shall be renegotiated after annexation to reflect changes in revenue sources and jurisdictional boundaries.

7.4 Watershed services. The COUNTY and CITY recognize that watershed management services are ongoing and that all needed surface water improvements and solutions have not been identified. The COUNTY and CITY intend to work towards one or more interlocal agreements for joint watershed management planning, capital construction and other related services including those activities relating to listings under the Endangered Species Act (ESA) and compliance with National Pollutant Discharge Elimination System (NPDES) requirements.

8. POLICE SERVICES

As provided by law, at the time of annexation, police service responsibility will transfer to the CITY.

9. FIRE SERVICES

As provided by law, at the time of annexation, fire service responsibility will transfer from the fire protection district to the CITY.

10. THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this AGREEMENT, and this AGREEMENT shall not be interpreted to create such rights.

11. HONORING EXISTING AGREEMENTS, STANDARDS AND STUDIES

Unless otherwise specified in this AGREEMENT and attachments, the CITY and COUNTY mutually agree to honor all existing mitigation agreements, interlocal agreements, appropriate interjurisdictional studies and agreed upon standards affecting an annexation area to which the CITY or COUNTY is a party.

12. RELATIONSHIP TO EXISTING LAWS AND STATUTES

This AGREEMENT in no way modifies or supersedes existing state laws and statutes. In meeting the commitments encompassed in this AGREEMENT, all parties will comply with the requirements of the Open Meetings Act, Growth Management Act, State Environmental Policy Act, Annexation Statutes and other applicable state or local law. The COUNTY and CITY retain the ultimate authority for land use and development decisions within their respective jurisdictions as provided herein. By executing this AGREEMENT, the COUNTY and CITY do not purport to abrogate the decisionmaking responsibility vested in them by law.

13. INDEMNIFICATION AND LIABILITY

13.1 The CITY shall protect, save harmless and indemnify at its own expense, the COUNTY, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever arising out of the CITY's performance of this AGREEMENT, including claims by the CITY's employees or third parties, except for those damages caused solely by the negligence or willful misconduct of the COUNTY, its elected and appointed

officials, officers, employees, or agents.

13.2 The COUNTY shall protect, save harmless and indemnify at its own expense, the CITY, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever arising out of the COUNTY's performance of this AGREEMENT, including claims by the CITY's employees or third parties, except for those damages caused solely by the negligence or willful misconduct of the COUNTY, its elected and appointed officials, officers, employees, or agents.

13.3 In the event of liability for damages of any nature whatsoever arising out of the performance of this AGREEMENT by the CITY and the COUNTY, including claims by the CITY's or the COUNTY's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of the COUNTY and the CITY, their officers, officials, employees and volunteers, each party's liability hereunder shall only be to the extent of that party's negligence.

13.4 No liability shall be attached to the CITY or the COUNTY by reason of entering into this AGREEMENT except as expressly provided herein. The CITY shall hold the COUNTY harmless and defend at its expense any legal challenges to the CITY's failure to comply with RCW 82.02.020 or RCW 82.02.070.

14. EFFECTIVE DATE, DURATION AND TERMINATION

This AGREEMENT shall be effective when executed by the CITY and COUNTY and shall remain in full force and effect until terminated by both the COUNTY and CITY. Any amendments and termination shall be in writing and executed in the same manner as provided by law for the execution of this AGREEMENT.

15. SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the provisions and/or the application of the provisions to other persons or circumstances shall not be affected.

16. EXERCISE OF RIGHTS OR REMEDIES

Failure of either party to exercise any rights or remedies under this AGREEMENT shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

17. RECORDS

Both parties shall maintain adequate records to document obligations performed under this AGREEMENT. Both parties shall have the right to review the other party's records with regard to the subject matter of this AGREEMENT, upon reasonable notice. Such rights last for six (6) years from the date of permit issuance for each specific development subject to this AGREEMENT.

18. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT between the parties with respect to the annexation. It is anticipated that the parties will enter into further interlocal agreements on specific subjects, as indicated in the text of the AGREEMENT.

19. GOVERNING LAW AND STIPULATION OF VENUE

This AGREEMENT shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for Snohomish County.

20. CONTINGENCY

The obligations of the CITY and COUNTY in this AGREEMENT are contingent on the availability of funds through legislative appropriation and allocation in accordance with law. In the event funding is withdrawn, reduced or limited in any way after the effective date of this contract, the CITY or COUNTY may terminate the contract under Part 14 of this AGREEMENT, subject to renegotiation under those new funding limitations and conditions.

21. CONTACTS FOR AGREEMENT

The contact persons for this AGREEMENT are:

Paul Roberts, Planning Director
City of Everett
Planning and Community Development
2930 Wetmore Avenue, Suite 8A
Everett, WA 98201-4044
(425) 257-8731

Karen Watkins, Senior Planner
Snohomish County
Department of Planning and Development Services
3000 Rockefeller Avenue
Everett, WA 98201
(425) 388-3311

IN WITNESS WHEREOF, the parties have signed this AGREEMENT, effective on the date indicated below.

CITY OF EVERETT

SNOHOMISH COUNTY

By _____
Edward D. Hansen, Mayor

By _____
Robert J. Drewel, County Executive

Date _____

Date _____

ATTEST:

ATTEST:

Sharon Marks
City Clerk

Kathryn Bratcher
Clerk of the County Council

Approved as to form:

Approved as to form:

Office of the City Attorney

Snohomish County Prosecuting Attorney

Jim Iles
Attorney for the City of Everett

Barbara J. Dykes
Deputy Prosecuting Attorney for
Snohomish County

EXHIBIT A -- Proposed Airport Road 80% Annexation Map

EXHIBIT B – Everett City Council Ordinance

EXHIBIT C - COUNTY LEGISLATIVE MEASURES AND CONTRACTUAL AGREEMENTS

Snohomish County Land Use and Development Codes which need to be adopted by the City. All codes are “as amended.”

- A. SCC Title 13, entitled ROADS AND BRIDGES, Chapters 13.01, 13.02, 13.05, and 13.10 through 13.70, 13.95, 13.110 and 13.130
- B. SCC Title 16, entitled FIRE CODE, Chapter 16.04
- C. SCC Title 17, entitled BUILDINGS, Chapters 17, 17.04, 17.16, 17.18, and 17.40
- D. SCC Title 18, entitled ZONING CODE
- E. SCC Title 19, entitled SUBDIVISION CODE
- F. SCC Title 19A, entitled BINDING SITE PLAN
- G. SCC Title 20, entitled SHORT SUBDIVISION CODE
- H. SCC Title 21, entitled SHORELINE MANAGEMENT PERMITS FOR DEVELOPMENT
- I. SCC Title 23, entitled ENVIRONMENTAL POLICY
- J. SCC Title 24, entitled DRAINAGE
- K. SCC Title 25, entitled STORM AND SURFACE WATER MANAGEMENT
- L. SCC Title 26A, entitled PARKS MITIGATION
- M. SCC Title 26B, entitled TRAFFIC MITIGATION
- N. SCC Title 26C, entitled SCHOOLS MITIGATION
- O. SCC Title 27, entitled FLOOD HAZARD
- P. Ordinance 93-036, entitled SHORELINE MASTER PROGRAM
- Q. SCC Chapter 32.10 Critical Areas Regulations
- R. SCC Chapter 32.11 Interim Ground Water Protection Regulations
- S. SCC Chapter 32.50 Permit Processing

All applicable state building and construction codes as adopted and amended by Snohomish County, including, but not limited to:

- a) 1997 Uniform Building Code
- b) 1997 Uniform Plumbing Code
- c) 1997 Uniform Mechanical Code
- d) Washington State Energy Code adopted April 1, 1990